

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT PANTON,	:	CIVIL ACTION NO. 1:11-CV-1845
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
CAPTAIN BRECKON, RONNIE HOLT	:	
	:	
Defendants	:	

ORDER

AND NOW, this 11th day of April, 2012, upon consideration of plaintiff's motion for default judgment (Doc. 17), based on defendants' failure to timely plead or otherwise respond to plaintiff's amended complaint (Doc. 9), and it appearing that, although untimely¹, defendants filed a motion to dismiss or motion for summary judgment (Doc. 18) on April 2, 2012, and it further appearing that entry of judgment by default pursuant to Rule 55(b)(2) is within the discretion of the trial court, Hritz v. Woma Corp., 732 F.2d 1178, 1180 (3d Cir.1984), and that because the United States Court of Appeals for the Third Circuit has emphasized that such "discretion is not without limits" and has repeatedly stated a preference that "cases be disposed of on the merits whenever practicable," id. at 1180-81 (citations

¹According to the waiver of the service of summons (Doc. 15), defendants were to serve an answer or a motion under Rule 12 within sixty days from January 18, 2012.

omitted), it is hereby ORDERED that plaintiff's motion for default judgment (Doc. 17) is DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge